

Appl. No. 10/661,664
Atty. Docket No. 8462C
Amdt. dated 01/04/2006
Reply to Office Action of 10/04/2005
Customer No. 27752

REMARKS

Claim Status

Claims 1, 3-16 and 20-24 are pending in the present application. Claims 2 and 17-19 are canceled without prejudice. In addition, claims 21-24 are newly added. No additional claims fee is believed to be due.

Claims 1, 3-6 and 10-16 have been amended to more specifically characterize the fibers of the present invention. Support for the amendments is found in the claims as originally submitted.

Claim 20 has been amended to provide for ease of reading.

Claims 21-24 have been newly added. Support for claim 21 may be found at page 10, line 10 of the specification. Support for claim 22 may be found throughout the specification, and specifically at: page 1, lines 14-15; from page 10, line 31 to page 12, line 5; and in claim 1 as originally submitted. Support for claim 23 may be found at page 11, lines 19-29. Finally, support for claim 24 may be found at page 10, lines 15-30.

It is believed that these changes do not involve any introduction of new matter. Consequently, entry of these changes is believed to be in order and is respectfully requested.

Rejections Under 35 U.S.C. §102 / §103 Over Haynes

Pending claims 1-10, 13, 14 and 16-20 are rejected under 35 U.S.C. 102(e) as being anticipated by or, in the alternative, under 35 U.S.C. 103(a) as being obvious over U.S. Patent Number 6,686,303, issued to Haynes et al (hereinafter referred to as "Haynes").

According to MPEP §2143, to establish a *prima facie* case of obviousness under § 103, the cited reference must teach or suggest all of the claim limitations. The same is required under §102 (a), (b) and (e). See for instance MPEP § 2131 which, citing *Verdegaal Bros. v. Union Oil Co. of California*, indicates that, "[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." Thus, in this respect, the

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requirements for both a § 103(a) obviousness rejection and a § 102(e) anticipation rejection are the same.

Applicants assert that Haynes does not meet the aforementioned requirements. Specifically, Haynes does not teach or suggest expressly or inherently a split fiber obtained by stretching a splittable composite fiber as is required in independent claim 1. Moreover, Haynes does not teach or suggest expressly or inherently the method of making a soft, extensible nonwoven web disclosed in independent claim 22, which comprises the steps of forming splittable composite fibers into a web and stretching the web such the splittable composite fibers separate into split fibers. To the contrary, Haynes explicitly teaches that the splitting of its splittable fibers may be accomplished without mechanical agitation, such as through a hot aqueous split-inducing medium (see col. 11, line 60 through col. 12, line 13), and that its disclosed thermoplastic fibers are "...incompatible with each other and responsive to a nonmechanical stimulus to induce separation from each other..." (see claim 1). Thus Haynes not only fails to teach or suggest the stretching that is required *inter alia* in each of independent claims 1 and 22, but actually teaches away from using any mechanical means of splitting much less stretching. On these bases, Applicants respectfully request withdrawal of the §§ 102(e) and 103(a) rejections of independent claim 1 and balance of the claims which depend therefrom. In addition, Applicants submit that newly added claim 22 and the claims that depend therefrom, which also require a stretching step to separate splittable fibers into split fibers, are also novel and nonobvious in light of Haynes.

Rejection Under 35 USC § 103(a) Over Haynes in view of Pike

Claims 11, 12 and 15 are rejected under 35 U.S.C. §103(a) as being obvious over Haynes in view of U.S. Patent Number 5,759,926, issued to Pike et al. (hereinafter referred to as "Pike"). Claims 11, 12 and 15 depend indirectly from claim 1 and add further limitations thereto. Since Applicants have established that the primary reference of Haynes cannot be properly applied in the suggested context to claim 1, the Applicants believe there is no need to address the propriety of the application of Pike as a secondary reference to claims that are narrower in scope than claim 1. Nonetheless, Applicants note that Pike fails to resolve any of the shortcomings of Haynes, and thus its combination with Haynes neither teaches nor suggests, expressly or inherently, each and every element of the invention as amended or newly claimed. Thus Applicants respectfully request

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withdrawal of the § 103 (a) rejections of claims 11, 12 and 15 and further submit that newly added claims 22 through 24 are also nonobvious in light Haynes in view of Pike.

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Conclusion

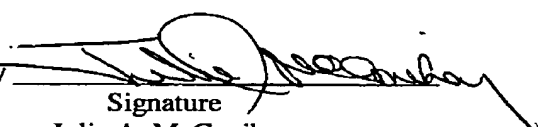
In light of the above remarks, it is requested that the Examiner reconsider and withdraw the rejections under §§ 102 and 103. Early and favorable action in the case is respectfully requested.

This response represents an earnest effort to place the application in proper form and to distinguish the invention as now claimed from the applied references. In view of the foregoing, reconsideration of this application, entry of the amendments presented herein, and allowance of Claims 1, 3-16, and 20-24 is respectfully requested.

Respectfully submitted,

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By


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